

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

KAY KIM,)	
)	
Plaintiff,)	
v.)	No. 1:08-cv-1644-SEB-DML
)	
LT. JAMES WATERS, et al.,)	
)	
Defendants.)	

Entry Discussing Motions to Dismiss

For the reasons explained in this Entry, the motions to dismiss of defendants Linda Handlon, Rhonda Heath, Patricia Ladenthin, Scott Perry, Mae Vera, IMPD NW District Supervisor, IMPD F254 Robert Lowe, IMPD F227 Shawn Smith, James Waters, and IMPD W0036 Gregory Wilkes ("the moving defendants") (dkt. nos. 132, 134, and 168) are **granted**.

Discussion

Plaintiff Kay Kim sues police officers, neighbors, and others based on conflict she has experienced in maintaining her residence in Indianapolis. Kim invokes a modest cadre of statutes to move her cause forward. These are captured in her complaint as:

"Civil Rights Act, CRA-FHA & US Constitution
Title 43>Chapter 29>Subchapter III>§1439, Title 28>Part IV>Chapter 85>
§1343 Jurisdiction also invoked pursuant to 28 USC §1343(a)(3)
28 USC §§ 1331, 1343 (a)(3), 1345, 1391 (b). 42 USC §§ 3601 et. Seq. Title
43 U.S.C § 1349, 42 USC § 3631."

(Complaint ¶ 16.) In addition to the foregoing, Kim states that she brings the suit "pursuant to Sec. 813. (a)(1)(A)(B), under Civil Rights Act (CRA), CRAFHA (Fair Housing Act) and U.S. Constitution." This amalgam includes 42 USC §§ 1981-1985(3).

The moving defendants, as noted, seek dismissal of the claims against them. Under Rule 12(b)(6) of the *Federal Rules of Civil Procedure*, a claim or entire complaint may be dismissed for a "failure to state a claim upon which relief can be granted." To state such a claim, the complaint need only contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed.R.Civ.P. 8(a)(2). "A complaint must always . . . allege 'enough facts to state a claim to relief that is plausible on its face.'" *Limestone Development Corp. v. Village of Lemont, Ill.*, 520 F.3d 797, 803 (7th Cir. 2008) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (citing *Bell Atlantic*, 550 U.S. at 570). The moving defendants have capably analyzed Kim's many claims. The memoranda of the moving defendants persuasively and correctly establish that Kim's claims against them lack facial plausibility because they lack sufficient "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* Kim's allegations and arguments opposing dismissal are permeated with abstract recitations of elements and conclusory legal statements, which "do not suffice." *Id.* ("[A] plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.") (citation, internal quotation marks, and brackets omitted); see also *Brooks v. Ross*, 578 F.3d 574, 581 (7th Cir. 2009). These deficiencies doom Kim's claims against the moving defendants.

Conclusion

The motions to dismiss of defendants Linda Handlon, Rhonda Heath, Patricia Ladenthin, Scott Perry, Mae Vera, IMPD NW District Supervisor, IMPD F254 Robert Lowe, IMPD F227 Shawn Smith, James Waters, and IMPD W0036 Gregory Wilkes (dkt nos. 132, 134, and 168) are **granted**. The motion of defendants Linda Handlon, Rhonda Heath, Patricia Ladenthin, Scott Perry and Mae Vera to reinstate the partial stay (dkt 184) is **denied as moot**. Defendant Vera's obligation to respond to the subpoena previously served on her is terminated, as is any moving defendant's obligation to respond to discovery served on that defendant prior to the issuance of this Entry.

No partial final judgment shall issue at this time as to the claims resolved in this Entry.

IT IS SO ORDERED.

Date: 03/04/2010



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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